IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 406 OF 2005

Shamshadkha B. Pathan ...Petitioner

Versus

The State of Maharashtra and Ors. ...Respondents

Mr. B.G. Tangsali with Mr. S.S. Pednekar for the petitioner.
Mr. N.P.Deshpande, Assistant Government Pleader, for respondents.

CORAM: **DALVEER BHANDARI, C.J.** & **S.A. BOBDE, J.**

DATE: **FEBRUARY 03, 2005**.

P.C.

The petitioner is guilty of plying a more than eight years' old commercial vehicle in Mumbai, in clear and flagrant violation of the order dated 3rd March, 2004, passed by a Division Bench of this Court. The petitioner's vehicle bearing No. GJ-1-TT-5489 was seized by respondent No.2 on 4th January, 2005, which was registered in Gujarat.

2. The learned counsel appearing for the petitioner submitted that the petitioner was unaware of the above order of the Division Bench. He has apologised for the lapse, and has given an undertaking

to the Court that similar lapse will not be repeated.

3. We have heard the learned counsel for the parties at length.

4. The learned Assistant Government Pleader submitted that the petitioner is guilty of deliberately violating the order of this Court, whereas, according to the petitioner, the lapse has been committed because of the inadvertence. On consideration of the totality of the facts and circumstances, the learned Assistant Government Pleader suggested that for this lapse, the petitioner be directed to deposit Rs.10,000/- with respondent No.2 – Regional Transport Officer. The learned counsel appearing for the petitioner, on instructions, has undertaken to pay this amount to respondent No.2 immediately.

5. In view of the arrangement between the parties, we direct that on payment of the said amount, the aforementioned vehicle be released to the petitioner. The petitioner, or any authorised representative on his behalf, would give an undertaking to respondent No.2 not to ply the said vehicle in Mumbai in future. On giving this undertaking and paying the said amount of Rs.10,000/-, the vehicle in question shall be released.

6. In compliance with the order of this Court dated 3rd March, 2004, the Office of the Transport Commissioner, State of Maharashtra, is directed to ensure that sign-boards are placed at the entry points to the City, stating that no commercial vehicle over the age of eight years is permitted to enter the City of Mumbai. Let this direction be carried out within two weeks from today. No further directions are necessary. This petition is, accordingly, disposed of.

CHIEF JUSTICE

S.A. BOBDE, J.